

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,  
INDIANA HELD A BUDGET WORK SESSION IN THE  
CITY/COUNTY BUILDING ON THURSDAY OCTOBER 18 , 2007  
AT 6:00 P.M.**

**MEMBERS PRESENT: OTHERS:** : Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Zurschmiede and President Kochert. Councilmember's Blevins and Messer were not available.

**Mr. Kochert** called the meeting to order at 6:00 p.m.

**Mr. Blevins** passed out calculations that he received from Linda Moeller which breaks down the districts so that they are all within 5% - 10% of one another.

**Mr. Messer** asked if the numbers had been verified by anyone on the council.

**Mr. Coffey** stated that the only way to verify completely is to do a census but these numbers were verified by the election board and the County Commissioner.

**There was a lengthy discussion regarding the numbers that were used by the County Clerk and whether or not the proposed districts are proportional. Mr. Coffey read a statement from Attorney Jerry Ulrich.**

**Mr. Ulrich** stated that they agreed in principal on how it was done not the end product and that they council would have something by November 22<sup>nd</sup>.

**Mr. Blevins** asked Mr. Ulrich if in his opinion if they pass an ordinance before November 22 is there just cause for the law suit.

**Mr. Ulrich** stated that whether there is just cause for a lawsuit depends upon the numbers that they were working with at the time the suit was filed.

**Mr. Price** stated that they did this stuff behind closed doors and he thought all the council members were in agreement that they wanted to take care of this as soon as possible. He stated then they came up with this committee and he wanted to know where the alternative plan was from this committee if they are so eager to take care of this.

**Mr. Messer** stated that it took over 4 years to get the council to even move on this and now all of a sudden we have to get this done in 3-6 months. He stated this was something that should have been done in 2002 but no one seemed to be in a hurry to get it done then. He stated that he is being forced to deal with something that he has no knowledge of and he needs time to look over Mrs. Moeller's numbers to see if they match with everything else that they have received on this and it can't be done over night. He stated that he is not questioning Mrs. Moeller's job he just wants to get all the facts.

**Mr. Kochert** stated that he has looked over the numbers with Mrs. Moeller and that makes three council members that have looked over the numbers and asked Mr. Messer if he had looked over them and if so what is his conclusion. He stated that he believes that the numbers from Mrs. Moeller is the best that they are going to get.

**Mr. Messer** explained that he doesn't have to have a plan, and that his job was to postpone the law suit so that they could come up with a plan. He stated that if they have the agreement of the Plaintiffs to postpone this, then what the hurry is. He asked Mr. Ulrich if they pass this ordinance if the Plaintiffs do not agree with it could they still move on with the lawsuit.

**Mr. Ulrich** stated that they could, but he believes that everything they have done will stand up in court. He explained that this case is going to be settled in one of two ways; by Consent Decree or by trial. He stated that he doesn't believe that the judges are concerned with the substance of the agreement but that there is an agreement.

**Mr. Messer** asked that if both the council and the plaintiffs sign off on a plan and certain terms of an agreement is that a definite guarantee that they won't go to court.

**Mr. Ulrich** stated that he believes all the judge wants to know is that they have an agreement of how they are going to do this by December 3<sup>rd</sup> but he isn't confident that even then it isn't subject to modification.

**Mr. Coffey** stated that he doesn't believe that the Plaintiffs dealing in good faith because he has at home 5 versions of the consent decree from the Plaintiffs. He doesn't believe that the judge will be happy with them for changing the consent decree that they agreed to in his chambers.

**Mr. Ulrich** explained that the judge would not mind that there were changes because this is a work in progress.

**Mr. Schmidt** stated that they have provided a plan and the plaintiffs have not and he doesn't understand how they can compromise with them if they do not present them with a plan.

**Mr. Messer** explained that they were trying to negotiate the terms that they would work under so that they can negotiate a plan and that is what a consent decree is.

**Mr. Blevins** stated that to him both parties are supposed to come to an agreement but the way it is working now the council is being dictated to and they are supposed to accept it without question.

**Mr. Messer** stated that is not what is going on.

**Mr. Blevins** stated that it was coming across that way in how it was being presented to them.

**Mr. Messer** stated that they have given up just about everything that was in the first agreement so that they could work with the council and how can they not say that is in good faith.

**Mr. Coffey** stated that in the original Consent Decree they have monetary figures and all of that was taken out and made broad. He explained that in the last agreement that was proposed it stated that they council would provide them with all the funds necessary and he sees this as giving them a blank check.

**Mr. Ulrich** explained that portion of the agreement stated that only the advisory committee would have the right to come to the council and ask for funds they felt necessary to carry out their purposes and there is no blank check in any of them including the one that states that the council will pay Mr. Beardsley more than they agreed to up to \$5,000 subject to the approval of the court.

**Mr. Messer** informed them that he has a consent decree that is exactly the same as that last one that they were presented but they have added numbers which is the reason they didn't want to vote on it before. He stated that the Consent Decree has been signed by all the plaintiffs and the council can decide that they want to go to court or they can get two more council members to sign this and they won't go to court and they can wait until next year.

**Mr. Blevins** stated that he believes that they just need to take action on this and if the Plaintiffs don't agree let the judge make the decision.

**Mr. Ulrich** stated that he doesn't believe that they want to do that because if they and the plaintiffs do not reach an agreement the Judge will bring in a demographics expert to do the redistricting and order the council to pay for it.

**Mr. Zurschmiede** asked if there were two different issues; one to reach a consent decree and one to redistrict. He stated that since the plaintiffs have signed off on the one agreement it would only make sense for the council to do the same so that they can keep this from going to court.

**Mr. Ulrich** stated that was correct.

**Mr. Kochert** stated that the way Mr. Messer got to be chairman of the committee was that he came up to him after the meeting and told him that he was going to be the chair.

**Mr. Blevins** asked Mr. Ulrich what it would take for this council to pass an ordinance to get it done this year so that they next council won't have to deal with it.

**Mr. Ulrich** explained that they are supposed to have a Consent Decree by November 16 and he doesn't care what is in the agreement as to how this gets done.

**Mr. Gahan** asked that if they pass a redistricting ordinance does that mean that all of this will go away.

**Mr. Ulrich** stated that was correct

**Mr. Zurschmiede** asked that in order for a Consent Decree to stop the lawsuit on November 16 don't they need to have signatures from both sides.

**Mr. Ulrich** said yes.

**There was a lengthy discussion between Mr. Messer and Mr. Coffey about whether or not the signatures on the so called Consent Decree.**

**Mr. Ulrich** asked if Mr. Beardsley had signed the agreement that Mr. Messer brought.

**Mr. Messer** stated that he had not.

**Mr. Ulrich** stated that would be something that needs to be done and then they need to put the item on the agenda to resend the previous one that they voted on.

**Mr. Gahan** stated that just because they do this redistricting now doesn't mean that the next council can't.

**Mr. Messer** stated that it was correct but he doesn't think they can do it in an election year.

**Mr. Ulrich** stated that he thinks that the statute has been amended and that he thinks mandatory redistricting after 2002 is no longer required.

**Mr. Gahan** stated that if they can't reach an agreement then the plaintiff's can approach the next council the same way they approached this one.

**There being no further business the meeting adjourned at 7:06 p.m.**

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Larry Kochert, President  
Common Council, City of New Albany

ATTEST:\_\_\_\_\_  
Marcey J. Wisman, City Clerk